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Volume: I

Pages: 1-71

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

**Exhibit 11**

-----x  
LAYLA KIANI,

Plaintiff,

v.

TRUSTEES OF BOSTON UNIVERSITY,

Defendants.

-----x  
DEPOSITION OF WENDY K. MARINER

Tuesday April 26, 2005, 10:20 a.m.

Law Office of Ben Tariri

343 Washington Street

Newton, Massachusetts 02458

-----**Reporter: Toni F. Beckwith, RMR-----**

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Toni F. Beckwith, Registered Merit Reporter  
50 Winsor Avenue  
Watertown, Massachusetts 02472  
Tel: 617.924.2731  
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1 A. When I was grading the paper, no.

2 Q. When you were grading the second  
3 paper?

4 A. When I was grading the second paper,  
5 no. I was just grading the second paper.

6 Q. Were you told by anyone else to do  
7 anything, to look at the first paper again?

8 A. Not then. At first I graded that  
9 second paper and discovered problems.

10 Q. So if you would, please, if you could  
11 just take us back to the process of grading your  
12 second paper.

13 A. Mm-hmm.

14 Q. How do you do it? How did you do it?

15 A. The same way I graded the first paper.

16 Q. Which is how?

17 A. As I said, I believe on the basis of  
18 the quality of the legal analysis and the  
19 responsiveness of the assignment.

20 Q. Do you cross-check to see if citations  
21 are correct as you read the paper?

22 A. If citations are correct?

23 Q. Right.

24 A. What do you mean by cross-check?

1                   Q. Do you actually check the authority to  
2                   see if the citation is the exact quotation from  
3                   that authority and whether it was placed in  
4                   block or quotation marks?

5                   A. Sometimes.

6                   Q. When do you do that?

7                   A. When it appears to be not someone's  
8                   original writing.

9                   Q. How do you determine that?

10                  A. When you've read as many papers as I  
11                  have, you can get a sense.

12                  Q. Was Ms. Kiani a good writer?

13                  A. Well, it's hard to say since much of  
14                  the paper does not appear to be her writing.

15                  Q. When you were grading her second  
16                  paper, were you looking for citations?

17                  A. No, not particularly. That was not  
18                  the first focus of grading.

19                  Q. No. But as part of your grading, you  
20                  would look to see if the citations are proper.  
21                  Would that be a fair statement?

22                  A. What do you mean by proper?

23                  Q. Proper that it was attributed to the  
24                  correct authority and it was done correctly

1 procedurally, technically?

2 A. Yes. I look to see if there is a  
3 reference for any statement of authority.

4 Q. Would you recognize works of others if  
5 they looked familiar to you?

6 A. Sometimes.

7 Q. If you could look back to the first  
8 page of Exhibit 1.

9 A. Yes.

10 Q. The sixth line from the bottom?

11 A. From the bottom?

12 Q. Yes.

13 A. Yes.

14 Q. Actually, I'm sorry, the fifth line  
15 from the bottom.

16 A. Yes.

17 Q. Can you read that line, please, the  
18 fifth line from the bottom?

19 A. Wendy Mariner, Independent External  
20 Review of Health Maintenance Organizations'  
21 Medical Necessity Decisions. That's more than  
22 one line.

23 Q. Is that an article that you wrote?

24 A. Yes.

1 Q. And you wrote that in the New England  
2 Journal of Medicine?

3 A. Yes. It was published in the New  
4 England Journal of Medicine.

5 Q. And it was published in the year 2002?

6 A. I believe so. I would want to check  
7 it to make certain. It sounds right.

8 Q. Do you recognize this article as you  
9 see it?

10 A. Yes. I should recognize the article  
11 if I see it.

12 Q. Do you recognize your own writing?

13 A. Usually.

14 Q. This was one of the improper citations  
15 that the charges were brought for; am I correct?

16 A. It appears to be one of many.

17 Q. Exactly. Would it be fair to say that  
18 you saw your own work not being cited correctly?

19 A. I saw my own work as part of the text  
20 of the paper. I recognized that.

21 Q. What did you do when you recognized  
22 that?

23 A. I looked carefully at the rest of the  
24 text in the paper.

1 Q. And what did you find?

2 A. I found unfortunately that a great  
3 deal of the text in the paper was from other  
4 articles.

5 Q. And did you form an opinion at this  
6 point?

7 A. About what?

8 Q. About the paper and the author of the  
9 paper.

10 A. I thought the paper was not original.

11 Q. Did you think that the paper was  
12 plagiarized?

13 A. Yes.

14 Q. So you believed that the paper was a  
15 plagiarized document?

16 A. I believed that there were lots of  
17 instances of plagiarizing other work.

18 Q. So you believed that it was plagiarism  
19 that had occurred?

20 MR. ELSWIT: Asked and answered.

21 Q. Did you believe that Ms. Kiani had  
22 plagiarized?

23 MR. ELSWIT: Asked and answered.

24 MR. TARIRI: I haven't asked that